

Chapter 112

TAXATION

[HISTORY: Adopted by the Borough Council of the Borough of Seven Valleys as indicated in article histories. Amendments noted where applicable.]

ARTICLE I

Realty Transfer Tax

[Adopted 4-3-2000 by Ord. No. 2000-1]

§ 112-1. Title.

This article shall be known as the "Realty Transfer Tax Ordinance of the Borough of Seven Valleys."

§ 112-2. Statutory authority.

A realty transfer tax for general revenue purposes is hereby imposed upon the transfer of real estate or interest in real estate situated within the Borough of Seven Valleys regardless of where the documents making the transfer are made, executed or delivered or where the actual settlements on such transfer took place as authorized by Article XI-D, the Local Real Estate Transfer Tax, 72 P.S. § 8101-D et seq.

§ 112-3. Definitions.

As used in this article, the following terms shall have the meanings indicated:

ASSOCIATION — A partnership, limited partnership or any other form of unincorporated enterprise owned or conducted by two or more persons other than a private trust or decedent's estate.

CORPORATION — A corporation, joint-stock association, business trust or banking institution which is organized under the laws of this commonwealth, the United States or any other state, territory, foreign country or dependency.

DOCUMENT — Any deed, instrument or writing which conveys, transfers, devises, vests, confirms or evidences any transfer or devise of title to real estate, but does not include wills, mortgages, deeds of trust or other instruments of like character given as security for a debt and deeds of release thereof to the debtor, land contracts whereby the legal title does not pass to the grantee until the total consideration specified in the contract has been paid or any cancellation thereof unless the consideration is payable over a period of time exceeding 30 years, or instruments which solely grant, vest or confirm a public utility easement. "Document" shall also include a declaration of acquisition required to be presented for recording under § 112-8 of this article.

FAMILY FARM CORPORATION — A corporation of which at least 75% of its assets are

devoted to the business of agriculture and at least 75% of each class of stock of the corporation is continuously owned by members of the same family. The business of agriculture shall not be deemed to include:

- A. Recreational activities, such as but not limited to hunting, fishing, camping, skiing, show competition or racing.
- B. Raising, breeding or training of game animals or game birds, fish, cats, dogs or pets or animals intended for use in sporting or recreational activities.
- C. Fur farming.
- D. Stockyard and slaughterhouse operations.
- E. Manufacturing or processing operations of any kind.

FAMILY FARM PARTNERSHIP — A partnership of which at least 75% of its assets are devoted to the business of agriculture and at least 75% of the interests in the partnership are continuously owned by members of the same family. The business of agriculture shall not be deemed to include:

- A. Recreational activities, such as but not limited to hunting, fishing, camping, skiing, show competition or racing.
- B. Raising, breeding or training of game animals or game birds, fish, cats, dogs or pets or animals intended for use in sporting or recreational activities.
- C. Fur farming.
- D. Stockyard and slaughterhouse operations.
- E. Manufacturing or processing operations of any kind.

MEMBERS OF THE SAME FAMILY — Any individual, such individual's brothers and sisters, the brothers and sisters of such individual's parents and grandparents, the ancestors and lineal descendants of any of the foregoing, a spouse of any of the foregoing and the estate of any of the foregoing. Individuals related by the half blood or legal adoption shall be treated as if they were related by the whole blood.

PERSON — Every natural person, association or corporation. Whenever used in any clause prescribing and imposing a fine or imprisonment, or both, the term "person," as applied to associations, shall include the responsible members or general partners thereof and, as applied to corporations, the officers thereof.

REAL ESTATE

- A. All lands, tenements or hereditaments within the Borough, including without limitation buildings, structures, fixtures, mines, minerals, oil, gas, quarries, spaces with or without upper or lower boundaries, trees and other improvements, immovables or interests which by custom, usage or law pass with a conveyance of land, but excluding permanently attached machinery and equipment in an industrial plant.
- B. A condominium unit.

- C. A tenant-stockholder's interest in a cooperative housing corporation, trust or association under a proprietary lease or occupancy agreement.

REAL ESTATE COMPANY — A corporation or association which is primarily engaged in the business of holding, selling or leasing real estate, 90% or more of the ownership interest in which is held by 35 or fewer persons and which:

- A. Derives 60% or more of its annual gross receipts from the ownership or disposition of real estate; or
- B. Holds real estate, the value of which comprises 90% or more of the value of its entire tangible asset holdings, exclusive of tangible assets, which are freely transferable and actively traded as an established market.

TITLE TO REAL ESTATE

- A. Any interest in real estate which endures for a period of time, the termination of which is not fixed or ascertained by a specific number of years, including without limitation an estate in fee simple or perpetual leasehold.
- B. Any interest in real estate enduring for a fixed period of years but which, either by reason of the length of the term or the grant of a right to extend the term by renewal or otherwise, consists of a group of rights approximating those of an estate in fee simple, life estate or perpetual leasehold, including without limitation a leasehold interest or possessory interest under a lease or occupancy agreement for a term of 30 years or more or a leasehold interest or possessory interest in real estate in which the lessee has equity.

BOROUGH — The Borough of Seven Valleys.

TRANSACTION — The making, executing, delivering, accepting or presenting for recording of a document.

- A. In the case of any bona fide sale of real estate at arm's length for actual monetary worth, the amount of the actual consideration therefor, paid or to be paid, including liens or other encumbrances thereon existing before the transfer and not removed thereby, whether or not the underlying indebtedness is assumed, and ground rents or a commensurate part thereof, where such liens or other encumbrances and ground rents also encumber or are charged against other real estate, provided that where such documents shall set forth a nominal consideration, the value thereof shall be determined from the price set forth in or actual consideration for the contract of sale.
- B. In the case of a gift, sale by execution upon a judgment or upon the foreclosure of a mortgage by a judicial officer, transactions without consideration or for consideration less than the actual monetary worth of the real estate, a taxable lease, an occupancy agreement, a leasehold or possessory interest, any exchange of properties or the real estate of an acquired company, the actual monetary worth of the real estate determined by adjusting the assessed value of the real estate for local real estate tax purposes for the common level ratio factor developed by the Pennsylvania Department of Revenue for Pennsylvania realty transfer tax base calculations as established by the State Tax Equalization Board.
- C. In the case of an easement or other interest in real estate the value of which is not

determinable under Subsection A or B, the actual monetary worth of such interest.

- D. The actual consideration for or actual monetary worth of any executory agreement for the construction of buildings, structures or other permanent improvements to real estate between the grantor and other persons existing before the transfer and not removed thereby or between the grantor, the agent or principle of the grantor of a related corporation, association or partnership and the grantee existing before or effective with the transfer.

§ 112-4. Imposition of tax; interest.

- A. Every person who makes, executes, delivers, accepts or presents for recording any document or in whose behalf any document is made, executed, delivered, accepted or presented for recording shall be subject to pay for and in respect to the transaction or any part thereof, a tax at the rate of 1/2 of one percent of the value of the real estate represented by such document, which tax shall be payable at the earlier of the time the document is presented for recording or within 30 days of acceptance of such document or within 30 days of becoming an acquired company. [Amended 12-3-2001 by Ord. No. 2001-3¹]
- B. The payment of the tax imposed herein shall be evidenced by the affixing of an official stamp or writing by the Recorder of Deeds whereon the date of the payment of the tax, the amount of the tax and the signature of the collecting agent shall be set forth.
- C. It is the intent of this article that the entire burden of the tax imposed herein on a person or transfer shall not exceed the limitations prescribed in the Local Tax Enabling Act, Act of December 31, 1965, P.L. 1257, 53 P.S. § 6901 et seq., so that if any other political subdivision shall impose or hereafter shall impose such tax on the same person or transfer then levied by the governing body under the authority of that Act shall during the time such duplication of the tax exists, except as hereinafter otherwise provided, be 1/2 of the rate and such one-half rate shall become effective without any action on the part of the Borough; provided, however, that the Borough and any other political subdivision which imposes such tax on the same person or transfer may agree that, instead of limiting their respective rates to 1/2 of the rate herein provided, they will impose respectively different rates, the total of which shall not exceed the maximum rate permitted under the Local Tax Enabling Act.
- D. If for any reason the tax is not paid when due, interest at the rate in effect at the time the tax is due shall be added and collected.

§ 112-5. Exempt parties.

The United States, the commonwealth or any of their instrumentalities, agencies or political subdivisions shall be exempt from payment of the tax imposed by this article. The exemption of such governmental bodies shall not, however, relieve any other party to a transaction from liability for the tax.

§ 112-6. Excluded transactions.

1. Editor's Note: This ordinance provided for an effective date of 1-1-2002.

- A. The tax imposed by § 112-4 shall not be imposed upon:
- (1) A transfer to the commonwealth or to any of its instrumentalities, agencies or political subdivisions by gift, dedication or deed in lieu of condemnation or deed of confirmation in connection with condemnation proceedings or a reconveyance by the condemning body of the property condemned to the owner of record at the time of condemnation which reconveyance may include property fine adjustments, provided that said reconveyance is made within one year from the date of condemnation.
 - (2) A document which the Borough is prohibited from taxing under the Constitution or statutes of the United States.
 - (3) A conveyance to a municipality, Borough, school district or county pursuant to acquisition by the municipality, Borough, school district or county of a tax delinquent property at Sheriff sale or Tax Claim Bureau sale.
 - (4) A transfer for no or nominal actual consideration which corrects or confirms a transfer previously recorded, but which does not extend or limit existing record legal title or interest.
 - (5) A transfer or division in kind for no or nominal actual consideration of property passed by testate or intestate succession and held by cotenants; however, if any of the parties take share greater in value than their undivided interest, tax is due on the excess.
 - (6) A transfer between husband and wife, between persons who were previously husband and wife who have since been divorced, provided that the property or interest therein subject to such transfer was acquired by the husband and wife or husband or wife prior to the granting of the final decree in divorce, between parent and child or the spouse of such child, between brother or sister or spouse of a brother or sister and brother or sister or the spouse of a brother or sister and between a grandparent and grandchild or the spouse of such grandchild, except that a subsequent transfer by the grantee within one year shall be subject to tax as if the grantor were making such transfer.
 - (7) A transfer for no or nominal actual consideration of property passing by testate or intestate succession from a personal representative of a decedent to the decedent's devisee or heir.
 - (8) A transfer for no or nominal actual consideration to a trustee of an ordinary trust where the transfer of the same property would be exempt if the transfer was made directly from the grantor to all of the possible beneficiaries, whether or not such beneficiaries are contingent or specifically named. No such exemption shall be granted unless the Recorder of Deeds is presented with a copy of the trust instrument that clearly identifies the grantor and all possible beneficiaries.
 - (9) A transfer for no or nominal actual consideration from a trustee to a beneficiary of an ordinary trust.
 - (10) A transfer for no or nominal actual consideration from trustee to successor trustee.

- (11) A transfer:
 - (a) For no or nominal actual consideration between principal and agent or straw party.
 - (b) From or to an agent or straw party where, if the agent or straw party were his principal, no tax would be imposed under this article.
- (12) A transfer made pursuant to the statutory merger or consolidation of a corporation or statutory division of a nonprofit corporation, except where the Department reasonably determines that the primary intent for such merger, consolidation or division is avoidance of the tax imposed by this article.
- (13) A transfer from a corporation or association of real estate held of record in the name of the corporation or association where the grantee owns stock of the corporation or an interest in the association in the same proportion as his interest in or ownership of the real estate being conveyed and where the stock of the corporation or the interest in the association has been held by the grantee for more than two years.
- (14) A transfer from a nonprofit industrial development agency or authority to a grantee of property, conveyed by the grantee to that agency or authority as security for a debt or the grantee or a transfer to a nonprofit industrial development agency or authority.
- (15) A transfer from a nonprofit industrial development agency or authority to a grantee purchasing directly from it, but only if:
 - (a) The grantee shall directly use such real estate for the primary purpose of manufacturing, fabricating, compounding, processing, publishing research and development, transportation, energy conversion, energy production, pollution control, warehousing or agriculture.
 - (b) The agency or authority has the full ownership interest in the real estate transferred.
- (16) A transfer by a mortgagor to the holder of a bona fide mortgage in default in lieu of a foreclosure or a transfer pursuant to a judicial sale in which the successful bidder is the bona fide holder of a mortgage, unless the holder assigns the bid to another person.
- (17) Any transfer between religious organizations or other bodies or persons holding title for a religious organization if such real estate is not being or has not been used by such transferor for commercial purposes.
- (18) A transfer to a conservancy which possesses a tax exempt status pursuant to § 501(c)(3) of the Internal Revenue Code of 1954, [68A Stat. 3, 26 U.S.C. § 501(c)(3)] and which has as its primary purpose preservation of land for historic, recreational, scenic, agricultural or open space opportunities or a transfer from such conservancy to the United States, the commonwealth or to any of their instrumentalities, agencies or political subdivisions.
- (19) A transfer of real estate devoted to the business of agriculture to a family farm corporation by a member of the same family which directly owns at least 75% of each

class of the stock thereof.

- (20) A transfer of real estate devoted to the business of agriculture to a family farm partnership by a member of the same family, which family directly owns at least 75% of the interests in the partnership.
 - (21) A transfer between members of the same family of an ownership interest in a real estate company, family farm corporation or family farm partnership which owns real estate.
 - (22) A transaction wherein the tax due is \$1 or less.
 - (23) Leases for the production or extraction of coal, oil, natural gas or minerals and assignments thereof.
- B. In order to exercise any exclusion provided in this section, the true, full and complete value of the transfer shall be shown on the statement of value. A copy of the Pennsylvania Realty Transfer Tax Statement of Value may be submitted for this purpose. For leases of coal, oil, natural gas or minerals, the statement of value may be limited to an explanation of the reason such document is not subject to tax under this article.

§ 112-7. Documents relating to associations or corporations.

Except as otherwise provided in § 112-6, documents which make, confirm or evidence any transfer or devise of title to real estate between associations or corporations and the members, partners, shareholders or stockholders thereof are fully taxable. For the purposes of this article, corporations and associations are entities separate from their members, partners, stockholders or shareholders.

§ 112-8. Acquired company.

- A. A real estate company is an acquired company upon a change in the ownership interest in the company, however effected, if the change does not affect the continuity of the company; and of itself or together with prior changes has the effect of transferring, directly or indirectly, 90% or more of the total ownership interest in the company within a period of three years.
- B. With respect to real estate acquired after February 16, 1986, a family farm corporation is an acquired company when, because of voluntary or involuntary dissolution, it ceases to be a family farm corporation or when, because of issuance or transfer of stock or because of acquisition or transfer of assets that are devoted to the business of agriculture, it fails to meet the minimum requirements of a family farm corporation under this article.
- C. A family farm partnership is an acquired company when, because of voluntary or involuntary dissolution, it ceases to be a family farm partnership or when, because of transfer of partnership interests or because of acquisition or transfer of assets that are devoted to the business of agriculture, it fails to meet the minimum requirements of a family farm partnership under this article.
- D. Within 30 days after becoming an acquired company, the company shall present a declaration of acquisition with the recorder of each county in which it holds real estate for

the affixation of documentary stamps and recording. Such declaration shall set forth the value of real estate holdings or the acquired company in such county. A copy of the Pennsylvania Realty Transfer Tax Declaration of Acquisition may be submitted for this purpose.

§ 112-9. Credits against tax.

- A. Where there is a transfer of a residential property by a licensed real estate broker which property was transferred to him within the preceding year as consideration for the purchase of other residential property, a credit for the amount of the tax paid at the time of the transfer to him shall be given to him toward the amount of the tax due upon the transfer.
- B. Where there is a transfer by a builder of residential property which was transferred to the builder within the preceding year as consideration for the purchase of new, previously unoccupied residential property, a credit for the amount of the tax paid at the time of the transfer to the builder shall be given to the builder toward the amount of the tax due upon the transfer.
- C. Where there is a transfer of real estate which is leased by the grantor, a credit for the amount of tax paid at the time of the lease shall be given the grantor toward the tax due upon the transfer.
- D. Where there is a conveyance by deed of real estate which was previously sold under a land contract by the grantor, a credit for the amount of tax paid at the time of the sale shall be given the grantor toward the tax due upon the deed.
- E. If the tax due upon the transfer is greater than the credit given under this section the difference shall be paid. If the credit allowed is greater than the amount of tax due no refund or carry-over credit shall be allowed.

§ 112-10. Determinations by Department of Revenue.

Whenever the amount of tax due to the Commonwealth of Pennsylvania pursuant to 72 P.S. § 8101-C et seq., upon final determination, redetermination or review by the Department of Revenue, is more than the amount actually paid to the commonwealth on account thereof, such amount, including all interest or penalties thereon, shall be deemed to be the amount due and payable to the Borough pursuant to this article and shall be collectible by the Recorder of Deeds upon rerecording as hereinafter provided. If the amount of such tax as finally determined is less than the amount actually paid, then upon application to the Borough together with proof of payment and final determination by the Department of Revenue, the Borough shall refund such portion of the overpayment that the Borough actually received. All applications for refunds must be received by the Borough within two years of the date of payment for which a refund is requested.

§ 112-11. Extension of lease.

In determining the term of a lease, it shall be presumed that a right or option to renew or extend a lease will be exercised if the rental charge to the lessee is fixed or if a method for calculating the rental charge is established.

§ 112-12. Proceeds of judicial sale.

The tax herein imposed shall be fully paid and have priority out of the proceeds of any judicial sale of real estate before any other obligation, claim, lien, judgment, estate or costs of the sale and of the writ upon which the sale is made except the state realty transfer tax, and the Sheriff or other officer conducting said sale shall pay the tax herein imposed out of the first moneys paid to him in connection therewith. If the proceeds of the sale are insufficient to pay the entire tax herein imposed, the purchaser shall be liable for the remaining tax.

§ 112-13. Duties of Recorder of Deeds.

- A. As provided in 16 P.S. § 11011-6, as amended by Act of July 7, 1983 (P.L. 40, No. 21), the Recorder of Deeds shall be the collection agent for the local realty transfer tax, including any amount payable to the Borough based on a redetermination of the amount of tax due by the Commonwealth of Pennsylvania of the Pennsylvania Realty Transfer Tax, without compensation from the Borough.
- B. In order to ascertain the amount of taxes due when the property is located in more than one political subdivision, the Recorder shall not accept for recording such a deed unless it is accompanied by a statement of value showing what taxes are due each municipality.
- C. On or before the 10th of each month, the Recorder shall pay over to the Borough all local realty transfer taxes collected, less 2% for use of the county, together with a report containing the information as is required by the Commonwealth of Pennsylvania in reporting collections of the Pennsylvania Realty Transfer Tax. The two-percent commission shall be paid to the county.
- D. Upon a redetermination of the amount of realty transfer tax due by the Commonwealth of Pennsylvania, the Recorder shall rerecord the deed or record the additional realty transfer tax form only when both the state and local amounts and a rerecording or recording fee has been tendered.

§ 112-14. Statement of value.

Every document lodged with or presented to the Recorder of Deeds for recording shall set forth therein and as a part of such document the true, full and complete value thereof or shall be accompanied by a statement of value executed by a responsible person connected with the transaction showing such connection and setting forth the true, full and complete value thereof or the reason, if any, why such document is not subject to tax under this article. A copy of the Pennsylvania Realty Transfer Tax Statement of Value may be submitted for this purpose. The provisions of this section shall not apply to any excludable real estate transfers which are exempt from taxation based on family relationship. Other documents presented for the affixation of stamps shall be accompanied by a certified copy of the document and statement of value executed by a responsible person connected with the transaction showing such connection and setting forth the true, full and complete value thereof or the reason, if any, why such document is not subject to tax under this article.

§ 112-15. Interest and penalty for nonpayment.

- A. If any part of any underpayment of tax imposed by this article is due to fraud, there shall be added to the tax an amount equal to 50% of the underpayment.
- B. In the case of failure to record a declaration required under this article on the date prescribed therefor, unless it is shown that such failure is due to reasonable cause, there shall be added to the tax 5% of the amount of such tax if the failure is for not more than one month, with an additional 5% for each additional month or fraction thereof during which such failure continues, not exceeding 50% in the aggregate.

§ 112-16. Lien.

The tax imposed by this article shall become a lien upon the lands, tenements or hereditaments or any interest therein, lying, being situated, wholly or in part within the boundaries of the Borough, which lands, tenements, hereditaments or interest therein, are described in or conveyed by or transferred by the deed which is the subject of the tax imposed, assessed and levied by this article said lien to begin at the time when the tax under this article is due and payable and continue until discharge by payment or in accordance with the law, and the solicitor is authorized to file a municipal or tax claim in the Court of Common Pleas of Monroe County, in accordance with the provisions of the Municipal Claims and Liens Act of 1923, 53 P.S. § 7101 et seq., its supplements and amendments.

§ 112-17. Recovery of taxes.

All taxes imposed by this article, together with interest and penalties prescribed herein, shall be recoverable as other debts of like character are recovered.

§ 112-18. Enforcement; incorporation of statutory regulations.

The designee of the Borough Manager of the Borough is charged with enforcement and collection of said tax and is empowered to promulgate and enforce reasonable regulations for enforcement and collection of the tax. The regulations which have been promulgated by the Pennsylvania Department of Revenue under 72 P.S. § 8101-C et seq. are incorporated into and made a part of this article.

§ 112-19. Violations and penalties.

Any person who violates or permits a violation of this article, upon being found liable therefor in a civil enforcement proceeding, shall pay a fine of not more than \$600, plus all court costs, including reasonable attorney's fees, incurred by the Borough in the enforcement of this chapter. No judgment shall be imposed until the date of the determination of this violation by the District Justice and/or Court. If the defendant neither pays nor timely appeals the judgment, the Borough may enforce the judgment pursuant to the applicable rules of civil procedure. Each day a violation exists shall constitute a separate offense. Further, the appropriate officers or agents of the Borough are hereby authorized to seek equitable relief, including injunction, to enforce compliance herewith.

ARTICLE II
Per Capita Tax

[Adopted 5-1-1967 by Ord. No. 89]

§ 112-20. Definitions.

A. The following words and phrases, when used in this article, shall have the meanings ascribed to them in this section unless the context clearly indicates a different meaning.

ADULT RESIDENT — Any person who has attained the age of 18 years on or before the first day of January of the current year and who shall be domiciled within the Borough of Seven Valleys, York County, Pennsylvania. [Amended 6-2-1975 by Ord. No. 1975-1²]

COLLECTOR — The Tax Collector of the Borough of Seven Valleys who shall collect and receive all taxes, interest, and penalties provided for in this article for the use and benefit of the Borough.

PERSON — Any natural person.

RESIDENT — Any person domiciled within the Borough of Seven Valleys, York County, Pennsylvania.

B. The singular shall include the plural and the masculine, the feminine and the neuter.

§ 112-21. Imposition, rate, and computation of tax. ³

In addition to the other taxes provided by ordinance of the Borough Council of Seven Valleys Borough, there is hereby imposed for general Borough purposes, on every adult resident of the Borough of Seven Valleys, an annual tax of \$10. Such tax shall be imposed in accordance with the provisions hereinafter set forth.

§ 112-22. Returns and payment of tax. ⁴

On or before the 15th day of July of the current year, the collector shall send to every adult resident of the said Borough, a notice of the personal tax due from such resident for the current fiscal year. Such notice may be part of the general notice sent to the residents of said Borough which notifies said residents of other taxes due and payable. Provided, however, that the said personal tax shall be listed separate and apart from property taxes and per capita taxes. Provided, however, that the failure or omission of the Collector to send or of any adult resident to receive, such notice shall not relieve such person from the payment of such tax. Provided, further, that any person who becomes a resident of the said Borough after August 1 of the current year shall not be liable for the personal tax for that year, and any person who ceases to be a resident at any time after September 1 of the current year shall be liable for the full amount of their personal tax for said year.

§ 112-23. Powers and duties of the Collector.

It shall be the duty of the Collector to collect and receive all taxes, penalties and interest

2. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

3. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

4. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

provided for in this article and to issue his receipts therefor. He shall keep a record showing the amounts received by him, the persons paying the same and the nature and date of such receipt.

§ 112-24. Administration; deficiency assessment.

- A. The Collector is hereby authorized to promulgate and enforce such rules and regulations as may be approved by the Borough Council of the Borough of Seven Valleys pertaining to the administration and enforcement of this article.
- B. In the event that any taxpayer shall pay the said tax on or before the 15th of September of the current year, he shall be entitled to a rebate of 2% of the tax herein levied.⁵

§ 112-25. Suits for collection; interest; penalties.

- A. If any tax imposed pursuant to this article shall not be paid when due, a penalty of 10% of the amount of tax due and unpaid shall be added thereto.
- B. The Borough Council of the Borough of Seven Valleys through its Solicitor, may sue in assumpsit for the recovery of all taxes, interest, and penalties again which are required to be paid by this article.
- C. If for any reason a tax imposed by this article is not paid on the date it is required to be paid, interest at the rate of 1% on the amount unpaid together with penalty thereon for each month or fraction thereof, shall be added and collected; and where suit is brought for the recovery of such tax and interest the taxpayer shall, in addition, be liable to costs of suit and a 5% commission for the use of the Borough upon the total of such tax and interest for expenses of collection.
- D. Any person convicted before any Justice of the Peace of the Borough of violating or failing to carry out any of the provisions of this article, or of failing, neglecting, or refusing to pay any tax or penalties imposed under this article, or attempting to do anything whatever to avoid the payment of the whole or any part of the tax imposed under this article, shall be liable to a fine or penalty not exceeding \$25 for each and every offense, and the costs of prosecution thereof and in default thereof to undergo imprisonment in the County Jail for a period not exceeding 30 days. Provided, that such fine or penalty shall be in addition to any other penalty imposed by any other section of this article.
- E. Provided, further, that the said Borough Council of the Borough of Seven Valleys shall in addition to and not in limitation of the above mentioned provisions, have the right to collect all taxes levied under this article together with all penalties in the manner authorized by law in the Commonwealth of Pennsylvania.

§ 112-26. Saving clause.

- A. Nothing contained in this article shall be construed to empower the Borough to levy and collect the taxes hereby imposed on any person not within the taxing power of the Borough under the Constitution of the United States and the Laws and Constitution of the

5. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. D).

Commonwealth of Pennsylvania.

- B. If the tax, or any portion thereof, imposed upon any person under the provisions of this article shall be held by any court of competent jurisdiction to be in violation of the Constitution of the United States or of the Commonwealth of Pennsylvania, the decision of the Court shall not affect or impair the right to impose the taxes, or the validity of the taxes so imposed upon other persons as herein provided.
- C. The provisions of this article are severable, and, if any of its provisions shall be held illegal, invalid or unconstitutional, the decision of the Court shall not affect or impair any of the remaining provisions of this article. It is hereby declared to be the intention of Borough Council of Seven Valleys Borough that this article would have been adopted if such illegal, invalid or unconstitutional provisions had not been included herein.

§ 112-27. Repealer.

Any Ordinance or part of an Ordinance conflicting with the provisions of this article be and the same is hereby repealed, insofar of this article be and the same is hereby repealed, insofar as the same affect this article.

ARTICLE III
Earned Income Tax

[Adopted 12-22-1980 by Ord. No. 1980-2; 11-7-2011 by Ord. No. 2011-2]

§ 112-28. Short title.

This article shall be known as the "Seven Valleys Borough Earned Income and Net Profits Tax Ordinance. "

§ 112-29. (Reserved)

§ 112-29.1. Intent and applicable rules.

- A. It is the intent and purpose of this article to include all of the applicable language and provisions of 53 P.S. 6924.501 et. seq., the Act of General Assembly of July 2, 2008 (P.L. 197) and known as Act No. 32, as may be amended and supplemented from time to time. In all enforcement of the administration of this article, the language and intent of the Act, as amended, shall take precedence.
- B. The tax imposed by this article shall be collected and administered in accordance with all applicable laws and regulations; and regulations, policies and procedures adopted by the TCC or Tax Officer. This includes any regulations, policies and procedures adopted in the future to the maximum extent allowed by 1 Pa.C.S.A. 1937.

§ 112-29.2. Definitions.

All words and phrases shall have the meanings as set forth in Act 32, as amended. The following words and phrases, when used in this article, shall have the meanings ascribed to them as follows:

BUSINESS — An enterprise, activity, profession or any other undertaking of an unincorporated nature conducted for profit or ordinarily conducted for profit, whether by a person, partnership, association or any other entity.

BUSINESS ENTITY — A sole proprietorship, corporation, joint-stock association or company, partnership, limited partnership, limited liability company, association, business trust, syndicate or other commercial or professional activity organized under the laws of this Commonwealth or any other jurisdiction.

CORPORATION — A corporation or joint-stock association organized under the laws of the United States, the Commonwealth of Pennsylvania or any other state, territory, foreign country or dependency. This term shall include an entity which is classified as a corporation for federal income tax purposes.

CURRENT YEAR — The calendar year for which the tax is levied.

DEPARTMENT — The Pennsylvania Department of Community and Economic Development or successor agency charged with any duties under the Act, as may be amended and supplemented.

DOMICILE — The place where one lives and has his permanent home and to which he has the intention of returning whenever he is absent. Actual residence is not necessarily domicile, for domicile is the fixed place of abode which, in the intention of the taxpayer, is permanent rather than transitory. Domicile is the place in which a man has voluntarily fixed the habitation of himself and his family, not for a mere special or limited purpose, but with the present intention of making a permanent home, until some event occurs to induce him to adopt some other permanent home. In the case of businesses or associations, the domicile is that place considered as the center of business affairs and the place where its functions are discharged.

EARNED INCOME — The compensation as required to be reported to or as determined by the Pennsylvania Department of Revenue under § 303 of the act of March 4, 1971 (P.L. 6, No. 2), known as the "Tax Reform Code of 1971," and rules and regulations promulgated under that section. For purposes of earned income, employee business expenses are allowable deductions as determined under Article III of the Tax Reform Code of 1971. The term does not include offsets for business losses. The amount of any housing allowance provided to a member of the clergy shall not be taxable as earned income.

EARNED INCOME AND NET PROFITS TAX — The tax levied herein by municipality on earned income and net profits. Also referred to as "tax" herein.

EMPLOYER — A person, business entity or other entity employing one or more persons for a salary, wage, commission or other compensation. The term includes the Commonwealth, a political subdivision and an instrumentality or public authority of either. For purposes of penalties hereunder, this term includes a corporate officer.

MUNICIPALITY — A city of the second class, city of the second class A, city of the third class, borough, Town, township of the first class or township of the second class. For purposes of this article, such term shall mean Seven Valleys Borough, York County, Pennsylvania.

NET PROFITS — The net income from the operation of a business, except corporations as required to be reported to or as determined by the Department of Revenue under § 303 of the act

of March 4, 1971 (P.L. 6, No. 2), known as the "Tax Reform Code of 1971," and rules and regulations in promulgated under such section. The term does not include income which is not paid for services provided; and which is in the nature of earnings from an investment. Further, the term shall not include:

- A. Any gain on the sale of farm machinery;
- B. Any gain on the sale of livestock held 12 months or more for draft, breeding or dairy purposes; and
- C. Any gain on the sale of other capital assets of the farm.

NONRESIDENT — A person, partnership, association or other entity domiciled outside of the municipality.

PERSON or INDIVIDUAL — A natural person.

PRECEDING YEAR — The calendar year before the current year.

RESIDENT — A person, partnership, association or other entity domiciled in the municipality.

SUCCEEDING YEAR — The calendar year following the current year.

TAX BUREAU — A public nonprofit entity established by a TCC for the administration and collection of earned income and net profits tax.

TAX COLLECTION COMMITTEE (TCC) — The committee established to govern each Tax Collection District for the purpose of income tax collection. This term shall include a joint tax collection committee.

TAX COLLECTION DISTRICT (TDC) — The York Tax Collection District as established under the Act.

TAX OFFICER — A political subdivision, public employee, tax bureau, county, excluding a county of the first class, or private agency which administers and collects earned income and net profits for one or more tax collection district. Unless otherwise specifically provided, for purposes of the obligations of an employer, the term shall mean the Tax Officer or tax collector for the tax collection district within which the employer is located, or if an employer maintains workplaces in more than one tax collection district, the Tax Officer for each such tax collection district with respect to employees principally employed therein.

TAXPAYER — A person or business required hereunder to file a return of earned income or net profits or to pay a tax thereon.

§ 112-30. Imposition of tax.

- A. A tax of 1% for general revenue purposes is hereby imposed on earned income and net profits earned by residents of the municipality.
- B. A tax of 1% for general revenue purposes is hereby imposed on earned income and net profits earned by nonresidents, exclusive of domestic servants and Maryland residents.
- C. The earned income and net profits tax levied under this article shall be applicable to earned

income received and to net profits earned during the period beginning January 1 of the current year and ending December 31 of the current year or for taxpayer fiscal years beginning in the current year. The earned income and net profits tax shall continue in force on a calendar year or taxpayer fiscal year basis without the need for annual enactment or reenactment, unless the rate of the tax is subsequently changed. For a taxpayer whose fiscal year is not a calendar year, the Tax Officer shall establish deadlines for filing, reporting and payment of taxes which provide time periods equivalent to those provided for a calendar year taxpayer.

§ 112-31. Declaration and payment of tax.

A. Application.

- (1) Income taxes shall be applicable to taxable income earned or received based on the method of accounting used by the taxpayer in the period beginning January 1 of the current year and ending December 31 of the current year; except that taxes imposed for the first time and changes to existing tax rates shall become effective on January 1 or July 1, as specified in this article, and the tax shall continue in force on a calendar year or taxpayer fiscal year basis, without annual reenactment, unless the rate of the tax is subsequently changed.
- (2) For a taxpayer whose fiscal year is not a calendar year, the Tax Officer shall establish deadlines for filing, reporting and payment of taxes which provide time periods equivalent to those provided for a calendar year taxpayer.

B. Partial domicile. The taxable income subject to tax of a taxpayer who is domiciled in a political subdivision for only a portion of the tax year shall be an amount equal to the taxpayer's taxable income multiplied by a fraction, the numerator of which is the number of calendar months during the tax year that the individual is domiciled in the political subdivision, and the denominator of which is 12. A taxpayer shall include in the numerator any calendar month during which the taxpayer is domiciled for more than half the calendar month. A day that a taxpayer's domicile changes shall be included as a day the individual is in the new domicile and not the old domicile. If the number of days in the calendar month in which the individual lived in the old and new domiciles are equal, the calendar month shall be included in calculating the number of months in the new domicile.

C. Declaration and payment. Except as provided in Subsection A(2), taxpayers shall declare and pay income taxes as follows:

- (1) Every taxpayer shall, on or before April 15 of the succeeding year, make and file with the resident Tax Officer a final return showing the amount of taxable income received during the period beginning January 1 of the current year and ending December 31 of the current year, the total amount of tax due on the taxable income, the amount of tax paid, the amount of tax that has been withheld under § 112-53 below and the balance of tax due. All amounts reported shall be rounded to the nearest whole dollar. At the time of filing the final return, the taxpayer shall pay the Tax Officer the balance of the tax due or shall make demand for refund or credit in the case of overpayment.
- (2) Net profit.

- (a) Every taxpayer making net profits shall, by April 15 of the current year, make and file with the Tax Officer a declaration of the taxpayer's estimated net profits during the period beginning January 1 and ending December 31 of the current year, and shall pay to the Tax Officer in four equal quarterly installments the tax due on the estimated net profits. The first installment shall be paid at the time of filing the declaration, and the other installments shall be paid on or before June 15 of the current year, September 15 of the current year and January 15 of the succeeding year, respectively.
 - (b) Any taxpayer who first anticipates any net profit after April 15 of the current year shall make and file the declaration required on or before June 15 of the current year, September 15 of the current year or December 31 of the current year, whichever date next follows the date on which the taxpayer first anticipates such net profit, and shall pay to the Tax Officer in equal installments the tax due on or before the quarterly payment dates that remain after the filing of the declaration.
 - (c) Every taxpayer shall, on or before April 15 of the succeeding year, make and file with the Tax Officer a final return showing the amount of net profits earned or received based on the method of accounting used by the taxpayer during the period beginning January 1 of the current year, and ending December 31 of the current year, the total amount of tax due on the net profits and the total amount of tax paid. At the time of filing the final return, the taxpayer shall pay to the Tax Officer the balance of tax due or shall make demand for refund or credit in the case of overpayment. Any taxpayer may, in lieu of paying the fourth quarterly installment of the estimated tax, elect to make and file with the Tax Officer, on or before January 31 of the succeeding year, the final return.
 - (d) The Department, in consultation with the Department of Revenue, shall provide by regulation for the filing of adjusted declarations of estimated net profits and for the payments of the estimated tax in cases where a taxpayer who has filed the declaration required under this subsection anticipates additional net profits not previously declared or has overestimated anticipated net profits.
 - (e) Every taxpayer who discontinues business prior to December 31 of the current year, shall, within 30 days after the discontinuance of business, file a final return as required under this article and pay the tax due.
- (3) Every taxpayer who receives any other taxable income not subject to withholding under § 512(3) of the Act shall make and file with the resident Tax Officer a quarterly return on or before April 15 of the current year, June 15 of the current year, September 15 of the current year, and January 15 of the succeeding year, setting forth the aggregate amount of taxable income not subject to withholding by the taxpayer during the three-month periods ending March 31 of the current year, June 30 of the current year, September 30 of the current year, and December 31 of the current year, respectively, and subject to income tax, together with such other information as the Department may require. Every taxpayer filing a return shall, at the time of filing the return, pay to the Tax Officer the amount of income tax due. The Department shall establish criteria under which the Tax Officer may waive the quarterly return and

payment of the income tax and permit a taxpayer to file the receipt of taxable income on the taxpayer's annual return and pay the income tax due on or before April 15 of the succeeding year.

- (4) The TCC may, by regulation, waive the requirements for a quarterly return and payment of income tax under specified circumstances, including those instances where a taxpayer's annual taxable income is less than a specified amount.

§ 112-32. Registration.

- A. Every employer having an office, factory, workshop, branch, warehouse or other place of business within the municipality, having imposed a tax on earned income or net profits within its municipal boundaries who employs one or more persons, other than domestic servants, for a salary, wage commission or other compensation who has not previously registered shall, within 15 days after becoming an employer, register with the Tax Officer or other designated Tax Officer his/her or its name and address and such other information as the Department or Tax Officer may require.
- B. Every employer shall require each new employee to complete a certificate of residency form, which form shall be an addendum to the Federal Employee's Withholding Allowance Certificate (Form W-4 or successor form). An employer shall also require any employee who changes their address or domicile to complete a certificate of residency form, which forms are available from the Department or the Tax Officer upon request. The purpose of said form shall be to help identify the political subdivision where an employee lives and works.

§ 112-33. Filing and payment of tax by employer; withholding.

- A. Every employer having an office, factory, workshop, branch, warehouse or other place of business within the municipality imposing a tax on earned income or net profits within the municipality who employs one or more persons, exclusive of domestic servants and Maryland residents, for a salary, wage, commission or other compensation shall deduct at the time of payment thereof the greater of the employee's resident tax or the employee's nonresident tax imposed by this article on the earned income due to his employee or employees and shall, on or before April 30 of the current year, July 31 of the current year, October 31 of the current year and January 31 of the succeeding year, file a quarterly return and pay to the Tax Officer the amount of taxes deducted during the preceding quarterly periods ending March 31 of the current year, June 30 of the current year, September 30 of the current year and December 31 of the current year, respectively. Such return, unless otherwise agreed upon between the Tax Officer and employer, shall show the name and social security number of each such employee, the compensation of such employee during such preceding three-month period, the tax deducted therefrom, the political subdivisions imposing the tax upon such employee, the total compensation of all such employees during such preceding quarterly period and the total tax deducted therefrom and paid with the return as well as any other information prescribed by the Department or the Tax Officer.
- B. Any employer who, for two of the preceding four quarterly periods, has failed to deduct the proper tax or any part thereof or who has failed to pay over the proper amount of tax to the

Tax Officer may be required by the Tax Officer to file his return and pay the tax monthly. In such cases, payments of tax shall be made to the Tax Officer on or before the last day of the month succeeding the month for which the tax was withheld.

- C. Notwithstanding the provisions of Subsection A above, the provisions of this Subsection C shall apply if any employer has more than one place of employment in more than one tax collection district. Within 30 days following the last day of each month, the employer may file the return required by Subsection A above and pay the total amount of tax due from employees in all work locations during the preceding month to the Tax Officer for either the tax collection district in which the employer's payroll operations are located or as determined by the Department. The return and tax deducted shall be filed and paid electronically. The employer must file a notice of intention to file combined returns and make combined payments with the Tax Officer for each place of employment at least one month prior to filing its first combined return or making its first combined payment. This subsection shall not be construed to change the location of an employee's place of employment for purposes of nonresident tax liability.
- D. On or before February 28 of the succeeding year, every employer shall file with the Tax Officer or other designated Tax Officer to whom tax which has been deducted has been remitted as required herein:
 - (1) An annual return showing the total amount of compensation paid, the total amount of tax deducted, the total amount of tax paid to the Tax Officer for the period beginning January 1 of the current year and ending December 31 of the current year, and any other information prescribed by the Department.
 - (2) An individual withholding statement which may be integrated with the Federal Wage and Tax Statement (Form W-2 or successor form), for each employee employed during all or any part of the period beginning January 1 of the current year and ending December 31 of the current year, setting forth the employee's name, address and Social Security number, the amount of compensation paid to the employee during said period, the amount of tax deducted, the numerical code prescribed by the Department representing the tax collection district where payments required herein were remitted and any other information required by the Department or the Tax Officer and the amount of tax paid to the Tax Officer. Every employer shall furnish two copies of the individual return to the employee for whom it is filed.
- E. Every employer who discontinues business prior to December 31 of the current year shall, within 30 days after the discontinuance of business, file the returns and withholding statements hereinabove required and pay the tax due.
- F. Except as otherwise provided for in § 511 of the Act, every employer who willfully or negligently fails or omits to make the deductions required by this section shall be liable for payment of the taxes which the employer is required to withhold to the extent that such taxes have not been recovered from the employee. The failure or omission of any employer to make the deductions required by this section shall not relieve any employee from the payment of the tax of from complying with the requirements of this article relating to the filing of declarations and returns.

- G. No employer shall be required to deduct or withhold taxes, file returns or pay taxes with regard to residents of Maryland.

§ 112-34. Powers and duties of Tax Officer.

- A. It shall be the duty of the Tax Officer to collect and receive the taxes, fines and penalties imposed by this article. It shall also be the Tax Officer's duty to keep a record showing the amount of tax received from each taxpayer paying the tax and the date of such receipt.
- B. Each Tax Officer, before entering upon official duties, shall give and acknowledge a bond to the TCC appointing such Tax Officer. The bond provided shall be subject to the requirements set forth in the Act.
- C. The Tax Officer shall comply with all resolutions, policies and procedures adopted by the Tax Collection Committee and shall comply with all regulations adopted by the Department under the Act.
- D. The Tax Officer shall refund, on petition of and proof by the taxpayer, earned income tax paid on the taxpayer's ordinary and necessary business expenses to the extent that such expenses are not paid by the taxpayer's employer.
- E. The Tax Officer and agents designated by him/her/it are hereby authorized to examine the books, papers and records of any employer or of any taxpayer or of any person whom the Tax Officer reasonably believes to be an employer or taxpayer in order to verify the accuracy of any declaration or return or, if no declaration or return was filed, to ascertain the tax due. Every employer and every taxpayer and every person whom the Tax Officer reasonably believes to be an employer or taxpayer is hereby directed and required to give to the Tax Officer or to any agent designated by him any means, facilities and opportunity for such examination and investigations as are hereby authorized. Such examination or audits shall be conducted by the Tax Officer and any agents designated by the Tax Officer shall be conducted in accordance with 53 Pa. C.S.A., Chapter 84, Subchapter C (relating to the local taxpayers bill of rights).
- F. Any information gained by the Tax Officer, his/her/its agents or by any other official or agent of the taxing district as a result of any declarations, returns, investigations, hearings or verifications required or authorized by this article shall be and remain confidential, except for official purposes and except in accordance with a proper judicial order or as otherwise provided by law.
- G. The Tax Officer is authorized to establish different filing, reporting and payment dates for taxpayers whose fiscal years do not coincide with the calendar year, provided that any filing, reporting or payment dates shall provide time periods equivalent to those time periods set forth for taxpayers whose fiscal year coincides with a calendar year.

§ 112-35. Suit for collection of tax.

- A. The Tax Officer may sue in the name of the political subdivision within the TCD for the recovery of taxes due and unpaid under this article.
- B. Any suit brought to recover the tax imposed by this article shall be begun within three

years after such tax is due, or the declaration or return has been filed, or a redetermination of compensation or net profits by the Pennsylvania Department of Revenue, whichever date is later; provided, however, that this limitation shall not prevent the institution of a suit for the collection of any tax due or determined to be due in the following cases:

- (1) Where no declaration or return was filed by any person although a declaration or return was required to be filed by him under provisions of this article, there shall be no limitation.
 - (2) Where an examination of the declaration or return filed by any person or of other evidence relating to such declaration or return in the possession of the Tax Officer reveals a fraudulent evasion of taxes, there shall be no limitation.
 - (3) Where any person has deducted taxes under the provisions of this article and has failed to pay the amounts so deducted to the Tax Officer or where any person has willfully failed or omitted to make the deductions required by this article, there shall be no limitation.
 - (4) Where an employer has intentionally failed to make deductions required by this article.
 - (5) In the case of substantial understatement of tax liability of 25% or more and no fraud, suit shall be begun within six years.
- C. The Tax Officer may sue for recovery of an erroneous refund, provided that such suit is begun two years after making such refund, except that the suit may be brought within five years if it appears that any part of the refund was induced by fraud or misrepresentation of material fact.
- D. This section shall not be construed to limit the municipality from recovering delinquent taxes by any other means provided by the Act. Further, nothing set forth herein shall be construed to limit a Tax Officer, a tax collection district or political subdivision from recovering delinquent taxes by any other means provided by the Act.

§ 112-36. Interest and penalties.

- A. Except as may be provided for in Subsection B below, in the event any tax imposed in this article is not paid when due, interest shall accrue at the same rate a taxpayer is required to pay to the Commonwealth as provided in § 806 of the act of April 9, 1929 (P.L. 343, No. 176), known as the Fiscal Code, or such successor legislation, on the amount of said tax and an additional penalty of 1% of the unpaid tax for each month or fraction thereof during which the tax remains unpaid shall be added and collected, but the amount of penalty shall not exceed 15% in the aggregate. Where an action is brought for the recovery of tax, the taxpayer liable for the tax shall, in addition, be liable for the costs of collection, interest and penalties, including, but not limited to court costs and attorney's fees.
- B. Pursuant to the Act, the Department may establish conditions under which a Tax Officer, with the concurrence of the TCC, may abate interest or penalties that would otherwise be imposed for the nonreporting or underreporting of income tax liabilities or for nonpayment of taxes previously imposed and due if the taxpayer files delinquent returns and pays the

tax in full.

- C. The provisions of Subsection B above shall not affect or terminate any petitions, investigations, prosecutions or other proceedings pending under this article, or prevent the commencement of further prosecution of any proceedings by the appropriate authorities for violations of this article. However, no proceedings shall be commenced on the basis of delinquent returns filed pursuant to § 112-36 above if the returns are determined to be substantially true and correct and the tax due is paid within the prescribed time.

§ 112-37. Violations and penalties.

- A. Any person who fails, neglects or refuses to make any declaration or return required by this article, any employer who fails, neglects or refuses to register or to pay the tax deducted from his employees or fails, neglects or refuses to deduct or withhold the tax from his employees, any person who refuses to permit the Tax Officer or any agent designated by him to examine his books, records, papers and any person who knowingly makes any incomplete, false or fraudulent return or attempts to do anything whatsoever to avoid the full disclosure of the amount of his net profits or earned income in order to avoid the payment of the whole or any part of the tax imposed by this article shall, upon conviction thereof, be sentenced to pay a fine of not more than \$2,500 for each offense and costs and, in default of payment of said fine and costs, to be imprisoned for a period not exceeding six months.
- B. Any employer who is required under this article to collect, account for and distribute taxes and who willfully fails to collect or truthfully account for and distribute such tax, commits a misdemeanor and shall, upon conviction, be sentenced to pay a fine not exceeding \$25,000 or to imprisonment not exceeding two years or both.
- C. Any person who divulges any information which is confidential under the provisions of this article shall, upon conviction thereof, be sentenced to pay a fine of not more than \$2,500 for each offense and costs or to imprisonment for not more than one year, or both.
- D. The penalties imposed under this section shall be in addition to any other penalty imposed by any other section of this article.
- E. The failure of any person to receive or procure forms required for making the declaration or returns required by this article shall not excuse him or her from making such declaration or return.
- F. The Borough of Seven Valleys hereby approves and adopts the Cost of Collection Schedule, attached hereto and made a part hereof,⁶ to be imposed by the designated Tax Officer for the collection of taxes on earned income and net profits, upon any taxpayer whose taxes are or become delinquent and/or remain due and unpaid; provided, however, that the TCC may approve amendments to said fee schedule by resolution from time to time. Amendments to the collection schedule shall become effective upon adoption by the TCC. The designated Tax Officer is hereby authorized to retain such costs of collection as set forth in the attached schedule, as may be amended and supplemented from time to time,

⁶. Editor's Note: Said Cost of Collection Schedule is on file in the Borough Offices.

in recovering delinquent taxes and as permitted to be assessed to delinquent taxpayers pursuant to law.

§ 112-37.1. Applicability.

This article shall not apply to any person or property as to whom or which it is beyond the legal power of the municipality to levy, assess and impose the tax or duties as herein provided.

§ 112-37.2. Severability.

The provisions of the Ordinance are severable and if any of its provisions are determined by a court of competent jurisdiction to be invalid or unconstitutional, such determination shall not affect or impair any of the remaining provisions of this article. It is hereby declared to be the intention of the Borough of Seven Valleys that this article would have been adopted is such invalid or unconstitutional provision had not been included.

§ 112-37.3. Purpose/amendment and restatement/repeal.

The primary purpose of this article is to conform the local income tax currently levied on earned income and net profits by the municipality with the Act and to do so within the time frame set forth in the Act. Any prior ordinance levying such tax is hereby amended and restated in its entirety to read as set forth in this article. To the extent that any previous ordinance or portion thereof is inconsistent or conflicts with this article, such ordinance(s) or portion thereof shall be repealed to the extent of such inconsistency and/or conflict. To the extent the same or any prior ordinance levying such tax in force immediately prior to enactment of this article, this article is intended as a continuation of such prior ordinance and not as the enactment of an ordinance imposing a new tax. In the event this article or any portion thereof is determined to be unconstitutional or otherwise invalid, the prior ordinance, or portion thereof, levying a similar tax shall remain in full force and effect and shall not be affected by the adoption of this article. Nothing contained herein shall affect, impair or otherwise abrogate any act done or liability incurred, nor shall any provision of this article affect, impair or preclude any suit or prosecution pending, whether or not currently initiated, to enforce any right, penalty or violation under the authority of any previous ordinance in force prior to adoption of this article.

§ 112-37.4. Effective date; initial current year.

The effective date of this article and beginning of the initial current year shall be January 1, 2012.

ARTICLE IV

Tax Certifications

[Adopted 5-4-1992 by Ord. No. 92-1; amended 12-6-2004 by Ord. No. 2004-5]

§ 112-38. Authorization.

The Tax Collector or Deputy Tax Collector of the Borough is hereby authorized to issue a certification concerning the status of real estate taxes imposed under Article V to any person requesting the same and is authorized to charge a fee in the amount of \$10 for the certification.

ARTICLE V
Annual Tax Measure

[The original Annual Tax Ordinance is on file in the Borough Office. The annual real estate taxes shall be imposed annually by ordinance as specified in the annual budget.]